IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 3RD AUGUST 2007 / 12TH SRAVANA 1929

CRP.No. 48 of 2005()

AGAINST THE ORDER DATED 29/08/2003 IN IA 1533/01 IN OS.204/2001 of SUB COURT, CHERTHALA

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REVN. PETITIONER: PLAINTIFF:

M.R. ANILKUMAR, MARANATTU,
PATTANAKKADU MURI, PATTANAKKADU VILLAGE.

BY ADV. SRI.K.K.SATHEESH

RESPONDENTS: RESPONDENTS:

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1. ALLIYAMMA, KOTTANATTU VEETTIL,
PADINJATTUM KARA VADAKKUM MURI,
KUTHIYATHODU VILLAGE.

2. JANAKI PANIKKATHI, KALARIPARAMBIL,
PERUMTHURUTHU MURI, MUHAMMA VILLAGE (NO MORE).

3. BHARATHIPANIKKATHI, KULANGARA,
ARYAD THEKKU, AMBALAPPUZHA TALUK. (NO MORE).

4. SURESH BABU, MADATHIL,
CHERTHALA VADAKKUM MURI, DO. VILLAGE.

5. VIJAYAPPAN, MADATHIL,
CHERTHALA VADAKKUM MURI, DO. VILLAGE.

6. BABY, MADATHIL, CHERTHALA VADAKKUM
MURI, DO. VILLAGE.

7. SOHANLAL, MADATHIL, CHERTHALA
VADAKKUM MURI, DO. VILLAGE.

8. S.N.D.P. BR.NO.625, VALORVATTOM,
CHERTHALA VADAKKU VILLAGE,
REPRESENTED BY ITS PRESIDENT.

9. M.K. SUGANTHAPPAN RESIDING AT
PRASOONATHIL FROM MADATHIL, CHERTHALA

VADAKKU VILLAGE, CHERTHALA VADAKKU MURI.

10. PRABHAVATHI RESIDING AT MARANATTU,
PATTANAKKADU VILLAGE FROM DO.

11. K.K. JAYADEVAN, KULANGARA,
ARYAD THEKKU, AVALOOKKUNNU WARD.

12. B. RADHAMONI, PADINJARE MADATHIL,
CHERTHALA VADAKKUM MURI FROM MADATHIL OF DO.

13. SOBHANA, THOZHURATHAM PARAMBIL,
THRIKKUNNAPUZHA, KARTHIKAPALLY TALUK.

14. P.J. SARALA BAI, SARALA BANGLOW,
CHUNKAM, ALAPPUZHA.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 03/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N.KRISHNAN, J.

C.R.P.No. 48 OF 2005 G

Dated this the 3rd August, 2007.

O R D E R

This revision petition is preferred against the order of the Subordinate Judge, Cherthala in I.A.1533/01 in O.S.204/91. The suit was one for declaration. The case came up for trial for the first time on 18.2.1997 and on account of the default of the plaintiff it was dismissed for default. Then an application was filed to restore the same as I.A.421/97. During the pendency of that application the fourth defendant in the suit died and an application to implead the legal representatives was filed as I.A.1593/97. Steps were not taken and therefore those two petitions were also dismissed. Thereafter to restore those applications I.A.867 and 866/99 were filed. Those applications were also dismissed for default for non-representation. Now the present I.A is filed to restore those two I.As. It has to be borne in mind even the present application was also once dismissed for default. The suit is of the year 1991 and we are in the year 2007. The conduct of the party clearly demonstrates grave misconduct and gross negligence. This Court had repeatedly held that the broad principles of natural justice always demands that an opportunity should be given to the party to

contest the case on merits but with a rider that unless it is not vitiated by gross negligence or grave misconduct. This is a classical case of both and if these cases are restored this will have only virtually the effect of putting the winning party into a loosing position. Therefore, I am not inclined to interfere with the decision of the learned Subordinate Judge as it is not vitiated by any illegality or irregularity. C.R.P stands dismissed.

M.N.KRISHNAN
Judge

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